IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 9TH APRIL 2007 / 19TH CHAITHRA 1929

Crl.Rev.Pet.No. 590 of 1999()

CRA.153/1997 of ADDL. SESSIONS COURT,-I, MAVELIKKARA
CC.85/1996 of JUDL. MAGISTRATE OF FIRST CLASS-II, HARIPAD

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REVN. PETITIONER:

RAJENDRAN, S/O. KUTTAPPAN, AGED 36 YEARS,
PUTHENPURA NADAKKATHIL, KRISHNAPURAM
VILLAGE, KARTHIKAPPALLY TALUK.

BY ADV. SRI.K.HARILAL

RESPONDENTS:

STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI. C.M. KAMMAPPU, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 09/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL. M.P. NO. 2642/1999 IN CRL.R.P. NO. 590/1999

DISMISSED

09.04.2007 SD/- K.R. UDAYABHANU, JUDGE.

/True Copy/

P.A to Judge.

K.R. UDAYABHANU, J

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CRL. R.P. NO. 590 OF 1999

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Dated this the 9th day of April 2007

O R D E R

The revision petitioner stands convicted for the offence under Sections 279, 337 and 304(A) of the Indian Penal Code and sentenced to undergo simple imprisonment for four months and to pay a fine of Rs.4,000/- for the offence under Section 304 (A) IPC. No separate sentence has been awarded for the offence under Sections 279 and 337 IPC. He is also disqualified for driving any vehicle for a period of one year vide Section 20 of the Motor Vehicles Act.

2. The prosecution case is that the accused on 21.06.1996 at about 10 p.m. drove an autorickshaw bearing Registration No. KL-4/B. 1486 in a rash and negligent driving so as to endanger human life and suddenly turned the vehicle towards the right side while attempting to over take a car and got overturned and as a result of which one Bhuvanendran, a passenger of the autorickshaw died.

3. The evidence adduced in the matter consisted of the testimony of PWs 1 to 12 Exts. P1 to P10. It was found by both the courts below concurrently that the incident was occasioned only on account of the rash and negligent driving on the part of the revision petitioner. It was found that there was no mechanical defect to the vehicle. In the circumstances, I find that there is no scope for interference in the findings of the courts below in exercise of the revisional jurisdiction of this Court.

4. The counsel for the revision petitioner has pleaded for leniency pointing out the fact that the incident had taken place more than 10 years ago and that the accused was so far facing the criminal proceedings and that he is only the earning member of his family. It is also submitted that the fine amount of Rs.4,000/- has already been deposited. In the circumstances, sentence is modified to imprisonment till the rising of the court and to pay a compensation of Rs.25,000/- to the legal heir of the deceased and and in default to undergo simple imprisonment for six months. The sentence imposed under Section 20 of the MV

Act is set aside. The revision petitioner is granted three months time from today onwards to deposit the amount of compensation less the amount already deposited towards fine imposed by the court below. The revision petitioner shall appear Judicial First Class Magistrate-II, Haripad on **10.08.2007** to receive sentence.

The Crl.R.P is disposed of accordingly.

K.R. UDAYABHANU, JUDGE.

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